



Signed and Filed: June 15, 2007

A handwritten signature in dark ink, appearing to read "T. E. Carlson", is written over a horizontal line.

THOMAS E. CARLSON  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re:	)	Case No. 04-32952 TEC 11
	)	
FLETCHER HARTWELL HYLER, aka	)	
BUD H. HYLER,	)	Chapter 11
	)	
	)	
Debtor.	)	
	)	
	)	
FLETCHER HARTWELL HYLER and	)	
SHERYL ROOT HYLER,	)	Adv. Proc. No. 06-3164 TC
	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
INVESTMENT GRADE LOANS, INC.,	)	
et al.,	)	
	)	
	)	
Defendants.	)	
	)	

**ORDER TRANSFERRING ACTION TO DISTRICT COURT AND DIRECTING  
SUBSTITUTION OF PARTIES PLAINTIFF**

The above-entitled action is one that could have been filed in federal court under either federal question or bankruptcy jurisdiction. It was filed in the bankruptcy court. Because trustee was the plaintiff, and the action could have an effect on

1 the bankruptcy estate, the action came within the jurisdictional  
2 grant of 28 U.S.C. 1334(b). Fietz v. Great Western Savings (In re  
3 Fietz), 852 F.2d 455, 457 (9th Cir. 1988). Pursuant to a  
4 settlement, however, the trustee has sold to the Debtor all claims  
5 involved in the action. As a result, the action can no longer have  
6 any effect on the bankruptcy estate, and the bankruptcy court no  
7 longer has subject-matter jurisdiction under section 1334(b).  
8 Because the action arises under the Federal Truth in Lending Act,  
9 the District Court could exercise federal question jurisdiction.

10 While it might ordinarily be appropriate to require Debtor to  
11 file a new complaint in the District Court, the interests of  
12 justice suggest that the action simply be transferred to the  
13 District Court for assignment to a District Judge. The same  
14 settlement that resulted in the transfer of claims from trustee to  
15 the Debtor, also resulted in relief from stay. This court expects  
16 that Defendant will move promptly to foreclose on the affected real  
17 property, and that Debtor will file a request for injunctive relief  
18 in the next few days. Defendant was at the hearing at which this  
19 court approved the transfer of the claims from trustee to Debtor.  
20 Pursuant to the settlement agreement, Debtor Fletcher Hartwell  
21 Hyler and his wife Sheryl Root Hyler are to be substituted as  
22 Plaintiffs.

23 Therefore, the court orders that:

24 (1) Fletcher Hartwell Hyler and Sheryl Root Hyler are  
25 substituted as parties Plaintiff in place of Andrea Wirum, trustee.

26 (2) The action is transferred to the District Court for the  
27 Northern District of California for assignment to a District Judge.

28 \*\*END OF ORDER\*\*

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Court Service List

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